THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.18518 of 1995

ORDER:

The limited grievance of the petitioner in the present writ petition is that the Labour Court-II, Hyderabad while allowing I.D.No.93 of 1982 (Old I.d.No.764/87) by its order dated 28-7-1993 denied him back wages for the period he was out of service.

The petitioner faced departmental enquiry while working as Cleaner in the respondent-organization at Medak Depot. The incident to which he was connected was that on 6-8-1991, while the petitioner was on duty he was asked to drive relief vehicle bearing No.AAZ1560 to attend relief work on another bus, which failed enroute. The charge against the petitioner is that when the relief vehicle, which he drove on 6-8-1991, was stopped and checked by the security guard at the outer gate, it was detected that 5 pipes, which are meant for supporting the roof, were kept in the chasis of the bus and were tied to the chasis. The only charge in the departmental proceedings framed against the petitioner reads as under:-

> "For having stolen E-5 roof supporting rods (steel make) and carrying in the Relief Vehicle AAZ.1560 at 5.05 hrs. on 6.8.1981 which caught red

> handed by Sri.G.Rajaiah, Security Guard which constitutes mis-conduct and Regulation 28 of APSRTC Employee's Conduct Regulation, 1963".

After enquiry, the petitioner was found guilty of the charge and he was removed from service. Aggrieved by the order of removal, the petitioner moved the Labour Court, which, as mentioned earlier, allowed the I.D. and directed the petitioner's reinstatement without break in service and without back wages.

Having heard the learned counsel for both sides and perused the record, I am of the considered opinion that the Labour Court is not justified in denying the petitioner's back wages. The Labour Court having considered the entire material including the documentary and oral evidence on record gave categorical finding at Para No.4 of the award as under:-

> In the absence of any direct evidence or any circumstantial evidence, which leads to an unrebuttable presumption that the petitioner has tied the five pipes to the chasis, it cannot be said that petitioner is guilty of theft of those five rods. The evidence on record is not sufficient to implicate the accused to theft of five pipes that were found tied to the chasis of the relief vehicle."

The Labour Court having cleared the petitioner from

the alleged delinquency with the categorical finding extracted above, in my considered view, ought to have restored the petitioner's position, as it would have existed had he not suffered the order of removal. In other words, the logical consequence of the setting aside the order of removal is to restore the benefits of service which the petitioner would have enjoyed, and have been entitled to but for the disciplinary proceedings initiated against him. The lower Court failed to give any reasons for denying the petitioner's back wages.

In the aforementioned circumstances, the petitioner is entitled to back wages along with other service benefits, which the labour Court has already awarded.

The writ petition is therefore, allowed and the award of Labour Court is accordingly modified. In the circumstances, there shall be no order as to costs.

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(C.V. NAGARJUNA REDDY, J)

Dated 19th September 2006
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